

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Rules and Regulations Implementing the)	
Telephone Consumer Protection Act of 1991)	CG Docket No. 02-278

**COMMENTS FROM EDUCATIONAL CREDIT MANAGEMENT CORPORATION IN
SUPPORT OF PETITION FOR RECONSIDERATION OF GREAT LAKES HIGHER
EDUCATION CORP.; NELNET, INC.; PENNSYLVANIA HIGHER EDUCATION
ASSISTANCE AGENCY; AND THE STUDENT LOAN SERVICING ALLIANCE**

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February 1, 2017

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EXECUTIVE SUMMARY

Educational Credit Management Corporation (“ECMC”) respectfully submits these Comments in Support of Petition for Reconsideration of the August 11, 2016 Report and Order (“*Order*”)¹ released by the Federal Communications Commission (“FCC”), which adopted rules to implement the Bipartisan Budget Act of 2015’s (“Budget Act”) amendments to the Telephone Consumer Protection Act (“TCPA”). The Budget Act required the FCC to adopt regulations that may “restrict or limit the *number and duration of calls* made to a telephone number assigned to a cellular telephone service to collect a debt owed to or guaranteed by the United States.”² The FCC’s promulgated rules are contrary to Congressional intent and are unsupported by the plain language of the statute and the record. Furthermore, the FCC’s interpretation of its authority in the rules is impermissibly broad.

¹ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 31 FCC Rcd 9074 (2016) (“*Order*”).

² 47 U.S.C. § 227(b)(2)(H), as amended by the Bipartisan Budget Act of 2015 (H.R. 1314); Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584, § 301(a)(2)(C) (*emphasis added*).

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Educational Credit Management Corporation (“ECMC”) respectfully submits these Comments in Support of the Petition filed by Great Lakes Higher Education Corp.; Nelnet, Inc.; Pennsylvania Higher Education Assistance Agency; and the Student Loan Servicing Alliance for reconsideration of the August 11, 2016 Report and Order (“*Order*”)³ released by the Federal Communications Commission (“FCC”) in the above-captioned proceeding.⁴ Established in 1994, ECMC is a nonprofit company that provides support for the administration of the Federal Family Education Loan Program (“FFELP”) as a student loan guaranty agency. In our guarantor role, ECMC sponsors programs to help students and families plan and pay for college. We work with schools and loan servicers to lower student loan default rates, promote financial literacy and provide resources to support student loan borrowers to successfully repay their loans. Our mission is to help students succeed.

³ *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, Report and Order, 31 FCC Rcd 9074 (2016) (“*Order*”).

⁴ See 47 C.F.R. §§ 1.405, 1.429 ECMC places calls to consumers to communicate options to help borrowers cure a federal student loan delinquency as well as to collect payment on defaulted federal student loan debts, and as such is an “interested person” that faces impact from the rules.

I. INTRODUCTION

The FCC adopted rules in the *Order* implementing the Bipartisan Budget Act of 2015’s⁵ (“Budget Act”) amendments to the Telephone Consumer Protection Act (“TCPA”), which provide an exemption to the “prior express consent” requirements for calls “solely to collect a debt owed or guaranteed by the federal government.” ECMC supports the Petition for Reconsideration of Great Lakes Higher Education Corp.; Nelnet, Inc.; Pennsylvania Higher Education Assistance Agency; and the Student Loan Servicing Alliance (“Petition”) and urges the FCC to reconsider the *Order*.

II. THE RULES ARE NOT SUPPORTED BY THE TEXT OF THE STATUTE OR THE RECORD AND ARE CONTRARY TO CONGRESSIONAL INTENT.

A. The Three-Call Attempt-Per-Thirty Day Limit Lacks Any Rational Basis and Will Stymie Borrower Contact

In the legislative history, Congress advocated for a balanced approach to the TCPA; unfortunately, the law has not kept up to date with changes in technology or the way the public communicates. When the TCPA was passed in 1991, cellular telephones were a rare commodity. In crafting the TCPA, Senator Fritz Hollings, the original bill’s sponsor, considered the issue of “cost shifting” advertising costs to recipients who had no prior relationship with the caller. These costs were the result of recipients incurring the costs of printing unsolicited advertisements sent to fax machines, forcing “the recipient to pay for the cost of the paper used to receive them” or

⁵ Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584.

being charged for the receipt of incoming calls to their wireless devices.”⁶ Today, many of the major U.S. wireless service providers (Verizon, AT&T, Sprint, T-Mobile and US Cellular) are offering service plans that include unlimited voice minutes and text messaging as the demand for wireless services continues to grow.⁷ Considering that on average, wireless consumers use 450 minutes to talk per month, the likelihood of a consumer incurring additional costs for the receipt of wireless calls has significantly reduced since the TCPA’s passage in 1991.⁸ A 2015 national study revealed 71.3 percent of adults between the ages of 25-29 and nearly 68 percent of adults age 30-34 have only a wireless telephone (no land lines).⁹ Moreover, 89.3 percent of current and former college students with student loans indicate that phone calls to land lines and traditional mail are ineffective means of communication.¹⁰ In a recent survey, more than 70 percent of respondents (current and former college students with student loans) indicated cell phone calls, text messages and emails are the best way to reach a borrower.¹¹ The U.S. Department of Education has noted, “Many student loan borrowers, especially those that may just be graduating, move frequently in addition to no longer having landline phone numbers. As such, it can be difficult for servicers to find a borrower except by using a cell phone number.”¹² In fact, the Department of Education has advocated, “Congress should change the law to ensure that

⁶ 137 Cong. Rec. at S9874 (1991).

⁷ Verizon Communications, Inc. (2015). *Annual report 2015*. Retrieved from <http://www.verizon.com/about/investors/annual-report> (last visited February 1, 2017).

⁸ J.D. Power & Associates, *Overall Wireless Network Problem Rates Differ Considerably Based on Type of Usage Activity*, 25 August, 2011.

⁹ National Health Interview Survey, U.S. Department of Health and Human Services, Centers for Disease Control and Prevention and National Center for Health Statistics, *Wireless Substitution: Early Release of Estimates from the National Health Interview Survey, January – June 2015*. Released December 2015. Available at <http://www.cdc.gov/nchs/data/nhis/earlyrelease/wireless201512.pdf> (Last visited January 25, 2017).

¹⁰ National Council of Higher Education Resources (NCHER) on-line Google Consumer Survey of current and former students in education loan servicing and methods of communication. Feb. 12, 2016. Available at http://c.ymcdn.com/sites/www.ncher.us/resource/resmgr/NCHER_Poll/01_NCHER_Survey_Insights.pdf. (Last visited January 25, 2017). (“NCHER Student Loan Online Survey Insights”).

¹¹ NCHER Student Loan Online Survey Insights.

¹² U.S. Department of Education, *Strengthening the Student Loan System to Better Protect All Borrowers* (Oct. 1, 2015) at pg. 16, available at <https://www2.ed.gov/documents/press-releases/strengthening-student-loan-system.pdf> (last visited Jan. 27, 2017).

servicers can contact borrowers using modern technology and help them get into the right repayment plan and avoid the consequences of default or resolve their default.”¹³

The limit of three dialing attempts per month is unduly restrictive and has effectively removed any functionality or impact from the Budget Act requiring federal debt holders to be excluded from the requirement to obtain consent prior to contacting a cell phone with an autodialer. The *Order* stated, “we believe two reasonable interpretations of the statute are to: (1) make it easier for owners of debts owed to or guaranteed by the United States and their contractors to make calls to collect the debts; and (2) make it easier for consumers to obtain useful information about debt repayment, which may be conveyed in these calls.”¹⁴ In fact, the rules established in the *Order* have made it more difficult for federal student loan servicers, guaranty agencies and their contractors to make calls to collect debts and has made it harder for consumers to obtain information about debt repayment.

After July 2010, no new FFELP loans were originated. As such, these loans guaranteed by the U.S. government are at least seven years old. Despite requirements in the master promissory note for federal student loan borrowers to keep their contact information up to date with their servicer, borrowers often fail to do so. As a result, it is more difficult to locate and contact borrowers. In fact, among young adults, those who had some college or graduated from college were the most likely to move.¹⁵ For example, for 25-29 year olds, college graduates continued to be the most likely to move at 32.6%.¹⁶ A report released by the U.S. Department of Treasury’s Bureau of the Fiscal Service (“Fiscal”) noted, “In the federal student loan program,

¹³ Id.

¹⁴ *Order* at ¶ 5 (internal citations omitted).

¹⁵ Benetsky, Megan J., Charlynn Burd, and Melanie Rapino, “Young Adult Migration: 2007–2009 to 2010–2012,” *American Community Survey Reports*, ACS-31, U.S. Census Bureau, Washington, DC, 2015, page 10. Available at <http://www.census.gov/content/dam/Census/library/publications/2015/acs/acs-31.pdf> (last visited January 27, 2017) (“Young Adult Migration Report”).

¹⁶ “Young Adult Migration Report” at pg. 10.

borrowers provide their contact information at the time of the loan application and, per the master promissory note and rights and responsibility statement, they are required to update the information throughout the life of their loan. However, Fiscal observed that contact information may not be updated and, as a result, can be outdated when these loans are referred for collection.”¹⁷ It takes multiple calls to establish live contact with a borrower and even more live interactions to assist borrowers in finding the best cure for their individual circumstances, including helping the borrower enroll in the appropriate repayment program (e.g., income-driven repayment, forbearance or deferment, etc.) or plan to exit default (e.g., consolidation, settlement, rehabilitation, etc.). The Fiscal Report further found, “speaking with a call center agent is critical to identifying and enrolling in a repayment option.”¹⁸ In addition, the Fiscal Report found call frequency of once per week (averaging four calls per month) produced substantially less collection results than greater call frequency.¹⁹ The FCC did not include this report or its findings in its determination to limit calls to three per month, which the Fiscal Report indicated was not as effective as allowing more calls.

Under the federal student loan regulations, lenders, servicers and guaranty agencies are required to “diligently attempt”²⁰ skip tracing efforts to obtain a borrower’s updated contact information to attempt to collect the government guaranteed debt. This includes attempted contacts with “each endorser, relative, reference, individual, and entity, identified in the borrower’s loan file.”²¹ For purposes of the section describing “diligent effort for telephone

¹⁷ Bureau of the Fiscal Service, U.S. Department of the Treasury, Report on Initial Observations from the Fiscal-Federal Student Aid Pilot for Servicing Defaulted Student Loan Debt (2016), available at <https://www.treasury.gov/connect/blog/Documents/student-loan-pilot-report-july-2016.pdf> (last visited January 27, 2017) (“Fiscal Report”) at pg. 5.

¹⁸ Id.

¹⁹ Id at pg. 4, Table C.

²⁰ 34 C.F.R. § 682.411(h)(1)

²¹ 34 C.F.R. § 682.411(h)

contact,”²² “references to the ‘borrower’ [are] understood to mean endorser, reference, relative, individual, or entity as appropriate.”²³

The *Order* has significantly hampered ECMC’s ability to locate and communicate with borrowers. In ECMC’s Skip Trace Unit, which attempts to obtain updated location information on borrowers, live communication with borrowers has dropped by approximately 57%. This is in direct conflict of the FCC’s interpretation of the Congressional intent²⁴ for the exception and impairs ECMC’s ability to comply with the due diligence requirements in the federal student loan regulations.²⁵ Moreover, the *Order* has made it more difficult to contact borrowers putting federal debt collection efforts on uneven footing with non-federal debt collection efforts.

1. The limit did not flow from the record.

The *Order* did not explain or provide evidence, empirical or otherwise, to support the seemingly arbitrary limit of three calls per month. Rather than providing empirical evidence supporting its three call per month limit, the FCC’s reasoning was that it “must engage in an exercise in line drawing.”²⁶

2. Commenters, including federal agencies and federal loan servicers, demonstrated with extensive filings why more calls are needed to effectuate Congress’s intent.

The statistics and empirical evidence submitted by many industry representatives showed that a three call per month limit effectively eliminated the exception Congress provided. The consensus among many of the commenters was that a three call per month limit did not achieve

²² 34 C.F.R. § 682.411(m)(1).

²³ 34 C.F.R. § 682.411(h)(4).

²⁴ “We believe two reasonable interpretations of the statute are to: (1) make it easier for owners of debts owed to or guaranteed by the United States and their contractors to make calls to collect the debts; and (2) make it easier for consumers to obtain useful information about debt repayment, which may be conveyed in these calls.” *Order* at ¶ 5 (internal citations omitted).

²⁵ See e.g., 34 C.F.R. §§ 682.411(h)(1) and (4).

²⁶ *Order* at ¶ 34.

the goals of the exception.²⁷ Moreover, the U.S. Department of Education submitted reply comments advocating for a higher limit and stating that a limit of three calls per month would not “measurably increase the likelihood that [loan servicers, guaranty agencies and private collection agencies] would reach a borrower.”²⁸ Neither the FCC nor the record supported the limit of three calls per month.

3. Any limits on the number of exempt calls should be based on the number of live conversations rather than call attempts.

In the Consumer Financial Protection Bureau’s (“CFPB”) Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking Outline of Proposals Under Consideration and Alternatives Considered (“CFPB Outline”), the CFPB recognized some of the challenges in confirming contact with consumers and noted it is contemplating different restrictions depending on whether the collector has successfully established contact with a consumer.²⁹ In those instances in which a debt collector does not have confirmed contact with a consumer, the CFPB is considering three attempts to contact per unique address or phone number per week, with a maximum limit of up to six total contact attempts per week.³⁰ If a collector has confirmed contact with a consumer, the CFPB is considering limiting attempts to contact of two attempts per unique phone number per week.³¹ In either instance, debt collectors attempting to collect on non-government-owned or guaranteed debt are afforded *more* contact attempts than those attempting to collect government-owned or guaranteed debt. This is in direct contradiction to the FCC’s own interpretation of the legislative intent and interpretation of the Budget Act, which is

²⁷ *Order* at ¶ 33. *See also, e.g.*, ECMC Comments at ¶¶ 6 and 7; Navient Comments at ¶ 10; Nelnet Comments at ¶ 14; Student Loan Servicing Alliance at ¶ 26. This industry consensus was consistent outside of the federal student loan industry. *See e.g.*, QLI Comments at ¶ 3 (related to the mortgage servicing industry, not federal student loans).

²⁸ U.S. Dept. of Ed. Reply Comments at ¶ 4; *Order* at ¶ 34.

²⁹ Consumer Financial Protection Bureau’s Small Business Review Panel for Debt Collector and Debt Buyer Rulemaking Outline of Proposals Under Consideration and Alternatives Considered, pg. 25, available at http://files.consumerfinance.gov/f/documents/20160727_cfpb_Outline_of_proposals.pdf (last visited January 27, 2017).

³⁰ *Id.* at pg. 26, Table 2.

³¹ *Id.*

to “(1) make it *easier* for owners of debts owed to or guaranteed by the United States and their contractors to make calls to collect the debts; and (2) make it *easier* for consumers to obtain useful information about debt repayment, which may be conveyed in these calls.”³²

4. The exemption’s triggering phrase “solely to collect a debt” should include all calls to collect a federal student loan for which the repayment period has begun, as well as certain calls before that period begins.

The definition of “covered calls” should include default prevention and servicing calls on federally owned or guaranteed debt. This covers the life cycle of the loan, and allows federal student loan servicers, guaranty agencies and their contractors assisting with recovery on such loans to contact borrowers to educate them as to available repayment options, remind them of upcoming deadlines to avoid delinquency and default, and help defaulted borrowers rehabilitate or consolidate their loans.

Federal student loans often carry a variety of unique repayment benefits and protections for borrowers who are struggling to repay their loans. These benefits can include the temporary cessation of payment (deferment or forbearance), temporary or permanent reduction in interest rates, extension of repayment terms, reduction of monthly payments and termination of obligation to repay (loan forgiveness, discharge, cancellation and co-signer release). Due, in part, to the complex nature of these programs’ enrollment and eligibility requirements, individuals who qualify aren’t enrolling. Seventy percent of borrowers with defaulted loans could have qualified for lower payments.³³ When borrowers are struggling to make their federal student loan payments, the stress and anxiety over the wide array of options can be confusing, particularly for student loan borrowers experiencing financial hardship who may need assistance selecting and

³² *Order* at ¶ 5 (internal citations omitted) (*emphasis added*).

³³ U.S. Government Accountability Office. (2015, August). Federal Student Loans: Education Could Do More to Help Ensure Borrowers Are Aware of Repayment and Forgiveness Options. (Publication No. GAO-15-663), page 18, footnote 21. Available at <http://www.gao.gov/assets/680/672136.pdf> (last visited January 27, 2017).

enrolling in the most appropriate program. By communicating this critical information before the repayment period has begun, borrowers will be in a better position to avoid delinquency and default, thereby satisfying the FCC's goal in accomplishing its interpretation of the Congressional intent to "make it easier for consumers to obtain useful information about debt repayment."³⁴

Federal student loan servicers and guaranty agencies work with consumers to offer solutions tailored to the borrower's specific circumstances. To do so, however, requires communication with borrowers before loans become delinquent to keep borrowers current; during delinquency to cure the delinquent loan; and after default. Ongoing communication with the borrower is key to helping avoid delinquency, repeated delinquencies and default altogether, thereby improving the repayment experience and preventing the negative and potentially long-lasting effects of delinquency and default.

For example, borrowers enrolled in income-driven repayment plans due to personal financial hardship may qualify for monthly payments as low as \$0.00. For a borrower with long-term low wages, these programs allow for loan forgiveness after completing 20 or 25 years of payments. However, income-driven repayment programs currently require federal student loan borrowers to re-apply every year. Failure to do so may have a detrimental impact as borrowers then forfeit their protection from interest capitalization, substantially increasing the total cost of the loans for borrowers who experience financial hardship for several years. Additionally, the borrower may be forced to pay a higher monthly payment or take a forbearance, extending the eligibility date and decreasing the amount entitled to be forgiven. The CFPB found that these situations could result in hundreds or thousands of dollars in additional payments paid by the

³⁴ *Order* at ¶ 5.

borrower.³⁵

Restrictions preventing calls to borrowers until they become delinquent does not provide borrowers with adequate notice and information to help manage their payments. Federal student loan regulations provide that “delinquency on a loan begins on the first day after the due date of the first missed payment that is not later made.”³⁶ As such, many of the negative consequences of delinquency would have already started.

B. The Commission Erred in Limiting the Exemptions to Calls to the Borrower

1. Calls to reassigned and wrong numbers must be allowed to give meaning to Congress’s exemption.

The TCPA revisions specifically exempted calls to cellular phones via autodialer attempting to collect a debt owed to or guaranteed by the United States where the caller does not have prior express consent to call the number. If the caller had prior express consent to call a number, the Budget Act exemption would not be applicable. Given the frequency with which cellular phone numbers change or are reassigned,³⁷ and the priority Congress provided to calls attempting to collect government-owned or guaranteed debt, it is plain that Congress intended such calls to be exempt from consent, so long as the caller ceased attempting to contact the reassigned phone number upon actual knowledge that the number no longer belonged to the borrower or co-obligor on the debt. To hold otherwise eliminates the effectiveness of the exception Congress granted.

³⁵ Consumer Financial Protection Bureau, *Report: Student Loan Servicing Analysis of public input and recommendations for reform*. (September 2015), available at http://files.consumerfinance.gov/f/201509_cfpb_student-loan-servicing-report.pdf (last visited January 27, 2017).

³⁶ 34 C.F.R § 682.411(b)(1).

³⁷ See *Order*, Dissenting Statement of Commissioner Michael O’Rielly, noting that “over 100,000 numbers are recycled each day.” See also, e.g., *Wall Street Journal*, “Wrong Number? Blame Companies’ Recycling,” by Alyssa Abkowitz (Dec. 1, 2011), stating “Almost 37 million phone numbers get recycled each year, a 16% increase since 2007, according to the most recent figures from the Federal Communications Commission.” Available at <http://www.wsj.com/articles/SB10001424052970204012004577070122687462582> (last visited January 27, 2017).

2. Calls to individuals other than the borrower are made “solely to collect a debt,” and, therefore, are necessarily exempt.

The *Order* limits covered calls to “the [borrower] or another person or entity legally responsible for paying the debt.”³⁸ The *Order* stated, “Calls are not permitted to other persons listed on the paperwork, such as references or witnesses, under our rules,”³⁹ reasoning that “calls to these persons cannot be ‘solely to collect’ the debt.”⁴⁰ Under the federal student loan regulations, lenders, servicers and guaranty agencies are required to “diligently attempt”⁴¹ skip tracing efforts to obtain the borrower’s updated contact information. This includes attempted contacts with “each endorser, relative, reference, individual, and entity, identified in the borrower’s loan file.”⁴² The regulations further provide that for purposes of the section describing “diligent effort for telephone contact,”⁴³ “references to the ‘borrower’ [are] understood to mean endorser, reference, relative, individual, or entity as appropriate.”⁴⁴ Furthermore, the contact information for endorsers, references and relatives are provided by the borrower⁴⁵ as individuals who would know how to contact the borrower in the event a servicer, guaranty agency or contractor are unable to get in touch with the borrower. As such, the prohibition on calls to anyone other than the borrower is not only unsupported by the record, it effectively hampers the ability and obligation of lenders, servicers and guaranty agencies to comply with the due diligence requirements under the federal student loan regulations.

³⁸ *Order* at ¶ 21.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ 34 C.F.R. § 682.411(h)(1).

⁴² 34 C.F.R. § 682.411(h).

⁴³ 34 C.F.R. § 682.411(m)(1).

⁴⁴ 34 C.F.R. § 682.411(h)(4).

⁴⁵ See e.g., OMB Form 1840-0742 available at <https://ifap.ed.gov/dpccletters/attachments/gen9911prom.pdf> (last visited Feb. 1, 2017); OMB Form 1840-0731 available at <https://ifap.ed.gov/dpccletters/attachments/gen999-1.pdf> (last visited Feb. 1, 2017).

III. THE FCC'S INTERPRETATION OF ITS RULEMAKING AUTHORITY IS IMPERMISSIBLY BROAD

The Congressional mandate for the FCC to promulgate regulations under the Budget Act amendments to the TCPA is limited to regulations related to calls regarding debt owed or guaranteed by the United States placed to cellular telephones using automatic dialing equipment without consent.⁴⁶ This directive from Congress to promulgate regulations is limited not only to telephone numbers assigned to a cellular service, but also to the *number* and *duration* of such calls. Requiring federal loan debt collectors to provide consumers with a notice of their right to stop the calls⁴⁷ limits neither the number nor the duration of the calls. Rather, this imposes additional requirements on such calls. For third-party debt collectors, the Fair Debt Collection Practices Act (“FDCPA”) imposes requirements that consumers not be contacted at any unusual time or place, or a time or place which should be known to be inconvenient to the consumer (it is presumed calls are inconvenient between 9 p.m. and 8 a.m. in the consumer’s local time).⁴⁸ Moreover, the FDCPA also imposes requirements for debt collectors to cease communications with consumers upon receipt of written notification to cease contact.⁴⁹

The *Order* exceeds the bounds of its rulemaking mandate by imposing restrictions and requirements beyond the *number* and *duration* of the calls. The *Order* imposes rules:

- Regarding who can be called and what must be said during the calls.⁵⁰
- Requiring callers “disclose this consumer right⁵¹ within *every completed*

autodialed call” and includes calls in which the caller speaks with the borrower

⁴⁶ “The [Federal Communications] Commission shall prescribe regulations to implement the requirements of this subsection. In implementing the requirements of this subsection, the Commission... (H) may restrict or limit the number and duration of calls made to a telephone number assigned to a cellular telephone service to collect a debt owed to or guaranteed by the United States.” 47 U.S.C. § 227(b)(2)(H), as amended by the Bipartisan Budget Act of 2015 (H.R. 1314) (*emphasis added*).

⁴⁷ *Order* at ¶40.

⁴⁸ 15 U.S.C. § 1692c(a)(1).

⁴⁹ 15 U.S.C. § 1692c(c).

⁵⁰ See, e.g., *Order* ¶¶ 21 and 40 (limiting who may be called and requiring disclosure of the right to opt out of future calls during every completed autodialed call with a live caller).

or leaves a voicemail message. It also requires such disclosure in calls using a prerecorded or artificial voice message.⁵²

- Mandating text messages disclose the consumer right to stop receiving autodialed calls and covered text messages.⁵³

None of these requirements relate to the *number* or *duration* of autodialed calls to cellular phones where the caller does not have consent to call the number using autodialing equipment. Moreover, the requirement to provide the opt-out disclosure “within *every completed autodialed call*”⁵⁴ is impermissibly broad as the FCC’s rulemaking authority was limited to restricting or limiting “the number and duration of *calls made to a telephone number assigned to a cellular telephone*”⁵⁵ and did not extend to *every completed autodialed call*.⁵⁶

IV. CONCLUSION

To help federal student loan borrowers manage their debts, prevent delinquency and avoid default, Congress amended the TCPA to allow autodialed calls to cell phones without prior express consent. ECMC commends the FCC for recognizing the importance of helping federal student loan borrowers avoid the negative consequences of default and delinquency. However, the FCC’s limit of three attempts per month prevents millions of federal student loan borrowers from receiving timely and accurate information about their federal student loans. The rules hamper the ability of federal student loan servicers, guaranty agencies and debt collectors to comply with the due diligence requirements of the federal student loan regulations. It restricts the ability to communicate accurate and timely information to federal student loan borrowers and to

⁵¹ That he or she has a right to request that no further autodialed, artificial-voice, or prerecorded-voice calls be made to the [borrower] for the life of the debt, and that such request may be made by any reasonable method.

⁵² *Order* at ¶ 40 (*emphasis added*).

⁵³ *Id.*

⁵⁴ *Id.* (*emphasis added*).

⁵⁵ Bipartisan Budget Act of 2015, Pub. L. No. 114-74, 129 Stat. 584, § 301(a)(2)(C) (*emphasis added*).

⁵⁶ *Order* at ¶40.

help them understand the benefits and protections to which they are entitled under the terms of their federal student loans. The FCC's restrictions in the *Order* are contrary to the record, text of the statute and Congressional intent. The FCC's rulemaking is impermissibly broad. We support the Petition and urge the FCC to reconsider the *Order*.

Respectfully submitted,

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